defendants' cargo clerk, and Peter Choo Chwee Tenh, one of the defendants' cargo supervisors, was to this effect. The defendants' aircraft arrived in Singapore from Bangkok on the 11th November, 1962, about 10 p.m. The eight cases containing watches were unloaded from the aircraft and placed in the defendants' store at the airport under the supervision of Chua and Stanley Ezekiel, who was one of the defendants' cargo supervisors. The store was allocated to the defendants by the Department of Civil Aviation. It was in a building used by that department with a partition made of strong wire mesh separating the store from the portion used by the department. The doors of the store were fastened by a hasp and staple and locked, and the key was kept by Ezekiel. The outer doors of the building in which the store was situated were then locked, and the key was returned by Ezekiel about 11.30 p.m. to the apron control. Choo and Ezekiel went home in the defendants' van. It was the van driver's duty to return to the airport, collect the key to the building from the apron control and put the van in the portion of the building used by the Department of Civil Aviation. He would then lock the outer doors of the building and leave the key with the apron control. The next morning he would collect the key from the apron control, open the outer doors of the building, and take out the van to collect the staff. He would lock the outer doors and leave the key with the apron control. Chua and Ezekiel returned to the airport in the van about 6.30 a.m. The hasp and staple fastening the doors of the store were found to have been prised open. The eight cases were missing. There was a square hole cut in the ceiling in the portion of the building which was occupied by the department of civil aviation. The ceiling was made of strong wire mesh. Access to the store could have been obtained from the premises of other air lines in the same building or from outside the building. The building accommodated the stores of Pan American Airways, Japan Air Lines, Air India and Qantas. No strong room was made available by the department of civil aviation for the various air lines who had stores in the building. The airport police provided security and patrolled the area. There had been no previous theft from any of the stores in the building. There was no reason to suppose that the store was in any way unsafe. The airport police were informed of the theft but no part of the missing cargo was recovered.

According to Peter Choo and Chua Jee Bah, if the Swiss consignors had made a special declaration of the value of the cargo, advance information would have been sent to the defendants as regards the declared value, the consignees would have been required by the defendants to take delivery of the cargo upon the arrival of the aircraft, and the cargo would not have been left in the store: no such special declaraion had been made and the cargo was therefore treated as general cargo. Article 22(2) of the Warsaw Convention limits the liability of the carrier to 250 francs per kilogram where the consignor has not made a special declaration of the value at delivery. It was not disputed that, if the defendants were found to be liable, their liability was limited by article 22(2) to $4,071.11, provided the air consignment note contained all the required particulars.

It was submitted by counsel for the plaintiffs that the eight cases of watches could have been kept in the defendants' town office. There was no evidence, however, that the defendants' town office would have been more secure than the defendants' store at the airport. On the evidence before me I came to the conclusion that the defendants took reasonable care to avoid the loss of the goods by theft.

There was a claim in tort for damages for the defendants' negligence in respect of the loss of the eight cases. This claim failed as the plaintiffs did not prove that the defendants did not take reasonable care to avoid the loss of the goods by theft.

For the above reasons I gave judgment for the defendants with costs.

Judgment for the defendants.

Solicitors: *Allen & Gledhill; Drew & Napier.*

LOH PECK HOO v. YIP LIM

[O.C.J. (Choor Singh J.) September 27, 1966]

[Singapore — Suit No. 337 of 1965]

Landlord and Tenant — Allegation that tenant has been "guilty of using or permitting the use of the premises for illegal or immoral purposes" — Proof — Control of Rent Ordinance, (Cap. 242), s. 15(1)(d).

The plaintiff claimed possession of certain premises on the allegation that the defendant, the tenant, had been guilty of using or permitting the use of the premises for illegal or immoral purposes. It was alleged that the premises in question had been used as a brothel and three police officers were called to testify that they saw persons going in and out of the premises.

Held: in order to succeed under section 15(1)(d) of the Control of Rent Ordinance it must be proved that the tenant has been guilty beyond reasonable doubt of using or permitting the use of the premises for illegal or immoral purposes and in this case the plaintiff had failed to do so.

CIVIL SUIT.

N. A. Christopher for the plaintiff.

R. E. Redrup for the defendant.

Choor Singh J. (delivering oral judgment): The plaintiff in this suit claims from the defendant possession of premises known as 267-C Outram Road, Singapore, which the plaintiff let to the defendant on a monthly tenancy. The premises come within the purview of the Control of Rent Ordinance and the plaintiff's claim is based on paragraph (d) of section 15(1) of the said Ordinance. The plaintiff alleges that the defendant has been guilty of using or permitting the use of the premises for illegal or immoral purposes. It is said that the premises in question have been used as a brothel and/or as a place of assignation in contravention of the provisions of sections 132 and 133 of the Women's Charter. The only evidence brought by the plaintiff in support of these allegation is that of three police officers who have testified that they kept observation on the premises on various dates and saw some persons go in and out of the premises. In my view this evidence, even if it is believed, is insufficient to warrant the inference that the premises in question have been used by the defendant as a brothel or as a place of assignation. In my opinion the expression "guilty. . . . of using or permitting the use of the premises for illegal or immoral purposes" appearing in paragraph (d) of section 15(1) of the Control of Rent Ordinance means guilty beyond a reasonable doubt and in this case, in my view, no court would convict the defendant of using the premises as a brothel or as a place of assignation on the evidence that has been put before this court by the plaintiff. The plaintiff, in my opinion, has failed to prove that the defendant has been guilty of using or permitting the use of the premises for illegal or immoral purposes within the meaning of paragraph (d) of section 15(1) of the Control of Rent Ordinance. The plaintiff's claim is therefore dismissed with costs.

Claim dismissed.

Solicitors: *N. A. Christopher; Osborne-Jones & Redrup.*

GOH YIN GUAN v. PUBLIC PROSECUTOR

[A.C.J. (MacIntyre J.) September 29, 1966]

[Ipoh — Criminal Appeal No. 27 of 1966]

Customs and Excise — Uncustomed goods — Charge of knowingly conveying — Presumption — Rebuttal — Accused an attendant of lorry — Admissibility of statements to customs officers — Evidence Ordinance, 1950, s. 24 — Customs Ordinance, 1952, ss. 97, 130 and 131.

This was an appeal against the conviction of the appellant for the offence of knowingly conveying uncustomed goods. The appellant was the attendant of the lorry in which the uncustomed goods were found when it was stopped at a customs road block. At the trial the learned president of the sessions court ruled that statements made by an accused to customs officers by way of answers to questions put by them were inadmissible because the accused had not been cautioned.

Held: (1) although there was a presumption that the appellant knew that the goods were uncustomed, he had rebutted this presumption by showing that he had no knowledge of the goods in the lorry because he was the attendant of the lorry and was carrying out his duties in the ordinary course of his employment;

(2) a statement made by an accused person to a customs officer is admissible whether he had been cautioned or not provided the statement is not a confession made in breach of section 24 of the Evidence Ordinance.

Cases referred to:—

(1) *Chye Ah San* v. *R.* [1954] M.L.J. 217.

(2) *Public Prosecutor* v. *Tay Yew Lia* [1957] M.L.J. 17.

(3) *Saminathan & Ors.* v. *Public Prosecutor* [1955] M.L.J. 121.

CRIMINAL APPEAL.

S. A. Lingam for the appellant.

Idris bin Yusoff (Deputy Public Prosecutor) for the respondent.

MacIntyre J.: The appellant was convicted by the learned president of the sessions court at Parit Buntar of the offence of knowingly conveying 20 bales of textile with intent to defraud the Government of duty payable thereon, an offence under section 131(1)(e) and punishable under section 131(1) of the Customs Ordinance, 1952.

The facts of the case are simple. At about 11.25 p.m. on June 21, 1965, a motor lorry belonging to a transport company by the name of Sharikat Pengangkutan Setia Kawan Berhad was stopped at a customs road block at Parit Buntar. The appellant was the attendant of the lorry, and the driver was one Low Boon. Twenty bales of textile were found in the lorry together with some porcelain ware. On being questioned by a customs officer, the driver said that he was proceeding from Butterworth to Kuala Lumpur to deliver the goods. The driver produced certain invoices but they were in respect of the porcelain ware. After further questioning the driver and the appellant were arrested and charged with having committed an offence under section 131(1)(e) as aforesaid.

A few days later one Ho Soh Har from Kuala Lumpur called at the customs office at Taiping, produced 4 invoices and claimed that he was the consignee of the twenty bales of textile seized. On examination it was found that the quality and quantity of the textile did not match with the particulars in the invoices. Thereupon Ho Soh Har was arrested and charged under section 131(1)(d) of the Customs Ordinance for being knowingly in possession of uncustomed goods.

All the three accused were then tried together. Ho Soh Har was acquitted without his